LEE HENG YAU v. KETUA PENGARAH INSOLVENSI MALAYSIA & ANOR

COURT OF APPEAL, PUTRAJAYA
AB KARIM AB JALIL JCA
AZIZAH NAWAWI JCA
ABU BAKAR JAIS JCA
[APPEAL CIVIL NO: B-01(IM)-380-08-2020]
11 MAY 2023

Abstract – *The procedural rules pertaining to appeals to a higher court must be strictly complied with. An extremely defective record of appeal would be treated as a nullity and not a mere irregularity. Where the statutory requirements for a notice of appeal is not complied with, thus, occasioning in miscarriage of justice, the appellate court is bound to uphold the preliminary objection pertaining to the non-compliance of such requirements.*

CIVIL PROCEDURE: *Appeal – Procedure – Appeal to Court of Appeal – Challenge against decision of Deputy Registrar – Whether decision in form of ruling – Whether finally disposed of rights of parties – Whether non-compliance with procedural provisions rendered appeal nugatory – Whether occasioned in miscarriage of justice – Whether appeal competent – Rules of the Court of Appeal 1994, r. 18(3)*

The appellant, a judgment debtor, was declared a bankrupt for unpaid debt owing to the second respondent, the bank. He agreed to pay monthly instalments of RM100 on the direction of the first respondent, the Director General of Insolvency, towards settling his debt. He subsequently applied to go overseas. In response, the second respondent raised the monthly instalments to RM150 as a condition to agree to his application to travel overseas. Thereafter, the first respondent applied for public examination of the appellant. The Deputy Registrar ('DR') of the High Court ('HC') conducted the public examination pursuant to s. 17 of the Insolvency Act 1967 and r. 143 of the Insolvency Rules 2017. After the public examination, the DR maintained that the monthly instalments should remain at RM150 and for the appellant to serve his statement of income and expenses to the first respondent every six months. Against this, the appellant appealed to the judge in chambers who decided that the public examination done by the DR and should not be set aside. The appellant then filed the was lawfully made notice of appeal before this court. The first and second respondents raised various procedural objections even before the substantive appeal was heard. The first respondent applied to essentially strike out part of the appellant's record of appeal and for certain documents in the appellant's record of appeal to be struck out. The second respondent contended that the appeal could not be maintained as the basis of the appeal did not relate to any judgment or

order within the meaning of s. 67(1) and read with s. 3 of the Courts of Judicature Act 1964 ('CJA'), in that, the DR's action in conducting the public examination and requiring the appellant to show his income and expenses every six months did not finally dispose of the rights of the appellant.

Held (declining to hear substantive appeal)
Per Abu Bakar Jais JCA delivering the judgment of the court:

(1) The appellant's notice of appeal was against the actions of the DR in conducting the public examination and requiring the appellant to submit his list of income and expenses every six months. This was in the form of ruling which did not finally dispose of the rights of the parties. The notice of appeal filed by the appellant for the appeal referred substantially to the action of the DR and not the High Court Judge, hence, not entitling an appeal. The preliminary objection should therefore be accepted resulting in the appeal not competent to be heard. The appellant also had failed to comply with various procedural provisions in respect of the appeal and hence, there was no basis for the appellant to sustain the appeal. (paras 18, 21, 22, 59 & 60)

(2) The notice of appeal filed by the appellant was not at all according to the format required in Form 1 of the First Schedule of the Rules of the Court of Appeal 1994 ('RCA'). Not only was the appellant lackadaisical in respect of complying with the form, the appellant's notice of appeal also was gibberish, incomprehensible and a mixture of all sorts of allegations levelled against the lower court. Hence, there was a substantial miscarriage of justice, not only to both respondents, but also to the court. (paras 30, 34 & 35)

(3) The other non-compliances by the appellant included: (i) the memorandum of appeal was not in the format required by r. 18(3) of the RCA, in that, it was not in the format as in Form 3 in the First Schedule of the RCA; (ii) failure to serve the draft index of the documents to be included in the record of appeal; (iii) filing of additional record of appeal beyond 90 days and received from the appellant beyond the prescribed days and there was no extension of time filed for the same; (iv) failure to include the sealed order of the HC and the written submission of the first respondent in the record of appeal; (v) without leave of the court, included in the appeal record, documents which were not adduced at the HC thus failing to adhere to s. 69(1) and (3) of the CJA; and (vi) ignoring para. 7.3(b) of the Practice Direction of the Court of Appeal No 1 of 2017 as the record of appeal ran more than 200 pages. (paras 37, 39, 44-49 & 54)

Case(s) referred to:

A Santamil Selvi Alau Malay & Ors v. Dato' Seri Mohd Najib Tun Abdul Razak & Ors [2015] 4 CLJ 1016 CA ***(foll)***

Asia Pacific Higher Learning Sdn Bhd v. Majlis Perubatan Malaysia & Anor [2020] 3 CLJ 153 FC ***(refd)***

Chuah Tim Lan v. RHB Bank Bhd & Anor [2008] 6 CLJ 500 CA ***(refd)***

Hardial Singh Sekhon v. Talam Leasing Sdn Bhd [2001] 3 CLJ 557 CA ***(refd)***

Hue Ngee On v. Chai Woo Sien (Sebagai Pegawai Awam Persatuan Hakka Kulai, Johor) [2009] 5 CLJ 734 CA ***(refd)***

Kempadang Bersatu Sdn Bhd v. Perkayuan OKS No 2 Sdn Bhd [2019] 4 CLJ 131 FC

Ladd v. Marshall [1954] 3 All ER 745 ***(refd)***

Lau Foo Sun v. Government Of Malaysia [1970] 1 LNS 56 FC ***(refd)***

Mazni Ibrahim v. Rosaidy Effandy (Tetuan Khairil & Co) [2013] 4 CLJ 453 CA ***(refd)***

Ng Hee Thoong & Anor v. Public Bank Bhd [1995] 1 CLJ 609 CA ***(refd)***

Ooi Bee Tat v. Tan Ah Chim & Sons Sdn Bhd & Anor And Another Appeal [1995] 4 CLJ 484 CA ***(refd)***

Legislation referred to:

Courts of Judicature Act 1964, ss. 3, 67(1), 69(1), (3)

Insolvency Act 1967, s. 17

Insolvency Rules 2017, r. 143

Rules of the Court of Appeal 1994, rr. 3A, 5(3), 7(1), (3), 18(3), (6), (7), First Schedule

For the appellant - In person

For the respondents - Lim Jia Wing; M/s Shook Lin & Bok
Hafizah Johor Ariff Johor; SFC & Norhaslina Nordin; FC

[Editor's note: Appeal from High Court, Shah Alam; Bankruptcy No: 29-4755-2005 (affirmed).]

Reported by S Barathi

JUDGMENT

Abu Bakar Jais JCA:

Introduction

[1] The appellant, a bankrupt, acted in person for his appeal on some bankruptcy matters before us against the decision of the High Court ('HC'). He did not file his written submission, after case management, despite instruction from this court. He went further. Much to our surprise, he requested a seven-member panel of this court to hear his appeal, despite not following the instruction to file his written submission.

[2] However, before he could proceed arguing his appeal, the first and second respondents raised various procedural objections even before the substantive appeal is heard.

[3] The first respondent applied through a notice of motion supported by affidavit to essentially strike out part of the appellant's record of appeal and for certain documents in the appellant's record of appeal to be struck out. The appellant did not reply to this affidavit filed by the first respondent.

[4] As if that is not enough for the appellant, the second respondent wrote letters to him, raising its preliminary objections to the appeal.

Background Facts

[5] The appellant being the judgment debtor, was declared a bankrupt for unpaid debt owing to the second respondent, the bank. He agreed to pay monthly instalments of RM100 on the direction of the first respondent towards settling his debt. He subsequently applied to go overseas. In response, the second respondent raised the monthly instalments to RM150 as a condition to agree to his application to travel overseas.

[6] Thereafter the first respondent applied for public examination of the appellant. The learned Deputy Registrar of the HC ('DR') conducted the public examination pursuant to s. 17 of the Insolvency Act 1967 and r. 143 of the Insolvency Rules 2017. After the public examination, the DR maintained that the monthly instalments should remain at RM150. The appellant must also serve his statement of income and expenses to the first respondent every six months.

[7] The appellant appeal had against the actions of the DR to the judge in chambers (learned HC Judge). The learned HC Judge ('HCJ') decided that the public examination done by the DR made was lawful and should not be set aside.

[8] The appellant then filed the notice of appeal before this court, which is now part of the objections by both respondents.

Our Decision

[9] First, we ought to decide on the second respondent's contention that the appeal could not be maintained as the basis of the appeal does not relate to any judgment or order within the meaning of s. 67(1) and read with s. 3 of the Courts of Judicature Act 1964 ("CJA").

[10] Section 67(1) of the CJA reads:

> *The Court of Appeal shall have jurisdiction to hear and determine appeals from any judgment or order of any High Court in any civil cause or matter, whether made in the exercise of its original or of its appellate jurisdiction,* subject nevertheless to this or any other written law regulating the terms and conditions upon which such appeals shall be brought. (emphasis added)

[11] While the relevant part of s. 3 of the CJA states:

> "decision" means judgment, sentence or order, but does not include any ruling made in the course of a trial or hearing of any cause or matter which does not finally dispose of the rights of the parties;

[12] The second respondent submitted the actions by the DR in conducting the public examination and thereafter requiring the appellant to show his income and expenses every six months did not finally dispose of the rights of the appellant.

[13] First, following the Federal Court in *Kempadang Bersatu Sdn Bhd v. Perkayuan OKS No 2 Sdn Bhd* [2019] 4 CLJ 131, there is a need to take both the above statutory provision together as pointed out as follows:

> [44] ... Subsection 67(1) of the CJA must be read together with s. 3 of the CJA.

[14] In another apex court decision, *Asia Pacific Higher Learning Sdn Bhd v. Majlis Perubatan Malaysia & Anor* [2020] 3 CLJ 153; [2020] 2 MLJ 1, Azahar Mohamed CJM in supporting the majority decision said:

> Although s. 67(1) of the CJA provides that the Court of Appeal has jurisdiction to determine appeals from any 'judgment' or 'order' of any High Court in civil matters, it is clear from a plain reading of s. 3 of the CJA that a 'decision', 'judgment' or 'order' excludes a ruling made in the course of a trial or hearing that does not finally dispose of the rights of the parties.

[15] Therefore, it is clear that a ruling which does not finally dispose of the rights of the parties would not qualify as a decision, judgment or order for an appeal.

[16] Indeed, in this regard, the second respondent submitted (para. 14 of its written submission and reinforced by para. 15 of the same) what was done by the DR did not finally dispose of the rights of the appellant and is only a ruling.

[17] Before determining whether it is a ruling or not, it is also relevant to note what was stated in the appellant's notice of appeal. Is the appeal against the DR? This can be conveniently determined by looking at the notice of appeal. Although the same is not easily understood, the relevant excerpt in *verbatim* states as follows:

> Sila ambil perhatian bahawa Perayu yang dinamakan diatas iaitu Lee Heng Yau yang tidak bersetuju Hakim Yang Arif Hakim Dato' Azmi bin Arrifin. Salah guna kuasa Tidak setaraf dengan jawatan dan Pelanggaran KOD ETIKA HAKIM 1994 keputusan diberikan pada 28 haribulan July 2020 **merayu kepada Mahkamah Rayuan terhadap keseluruhan keputusan tersebut berkenaan TP Fatimah Rubi'ah binti Ali** ... (emphasis added)

[18] Looking at the excerpt above, we are of the considered view that the appellant's notice of appeal is against the actions of the DR in conducting the

public examination and requiring the appellant to submit his list of income and expenses every six months. After all, the words in bold above, clearly indicate the appeal is against the decision (the word "decision" here is only in the understanding of the appellant) of the DR.

[19] As a result of the above and having in mind both the decisions of the Federal Court in *Kempadang Bersatu* and *Asia Pacific* alluded earlier, we would turn our attention to the substance of the present appeal before us. Could the action by the DR be said to be only a ruling that does not dispose of the rights of the parties?

[20] As explained earlier, the appellant appeal had against the public examination conducted by the DR to the judge in chambers. The learned HCJ then decided that the public examination done and the ensuing action by the DR were lawful. The appellant then filed his notice of appeal to appeal before us. However, having seen and studied the notice of appeal filed by the appellant before us, we are of the opinion that the same referred to the action of the DR but not exactly the decision of the HCJ. As earlier explained, what the DR did is only to conduct the public examination but maintaining the monthly instalments to RM150 by the appellant and not even increasing this amount and also requiring the appellant to serve his statement of income and expenses to the first respondent every six months.

[21] We are of the view that what was done by the DR indeed had not disposed of the rights of the appellant. Therefore, we concluded that the same is only in the form of a ruling. It is certainly a ruling made before the same matter is appealed to the judge in chambers. Hence, it does not finally dispose of the rights of the parties when the matter was before the DR.

[22] What is of importance to bear in mind is that the notice of appeal filed by the appellant for the appeal before us, referred substantially to the action of the DR and not the HCJ. Hence, we agree with the second respondent on this issue that it was only a ruling by the DR, not entitling an appeal. The preliminary objection should therefore be accepted, resulting in the present appeal not competent to be heard.

[23] Turning to a different issue, in respect of the application to strike out by the first respondent and also raised by the second respondent, it is argued that the appellant's notice of appeal is not in consonant with the format as required by r. 5(3) of the Rules of the Court of Appeal 1994 ("ROCOA") that states:

> A notice of appeal shall substantially be in Form 1 in the First Schedule.

[24] Form 1 of the First Schedule as required is shown below.

FIRST SCHEDULE

FORM 1

(Rules 5 and 17)

IN THE COURT OF APPEAL OF MALAYSIA

(Appellate Jurisdiction)

Civil Appeal No ... of 19 ...

Between

A.B ..... Appellant

and

CD ..... Respondent

(In the matter of No of 19 ....

in the High Court in ..... at .....

Between

.....

and

.....)

NOTICE OF APPEAL

Take notice that ..... being dissatisfied with the decision (s) of the Honourable Mr. Justice ..... given at ..... on the ..... day of 19 ..... appeals to the Court of Appeal against

{the whole of the said decision(s) either/or {such part only of the said decision(s) {as decides that

(Set out details)

Dated this ..... day of 19

.....

Appellant Solicitor for the Appellant

To

The Registrar,

The Court of Appeal,

.....

A and to

The Registrar,

The High Court in ..... at .....

and to

B .....

.....

The address for service for the Appellant is .....

.....

C **[25]** Before we delve deeper into both respondent's submissions above, we ought to remind ourselves that the appellant chose not to reply to the affidavit filed by the first respondent in support of the application. Thus, we ought to recall the oft-quoted case of the Court of Appeal in *Ng Hee Thoong & Anor v. Public Bank Bhd* [1995] 1 CLJ 609 on the effect of a non-reply to such D affidavit filed. As it is crystal clear, on this point we only have to refer to held [2] of the case which states:

> It is a well settled principle governing the evaluation of affidavit evidence that where one party makes a positive assertion upon a material issue, the failure of his opponent to contradict is usually treated as an admission by E him of the fact so asserted.

[26] In this regard, we are not assisted at all by the decision of the appellant not to reply to the affidavit filed in support of the first respondent's application to strike out basically the appellant's record of appeal. In fact, this stand of the appellant had forced us to seriously conclude that the F appellant's failure to contradict the first respondent by way of an affidavit in reply, amounts to an admission of what is asserted against him; that this is a case justifiably for the striking out filed by the first respondent. After all, this approach of ours is only consistent with what was laid down clearly as the principle by *Ng Hee Thoong* above. In fact, following *Ng Hee Thoong*, we G strictly do not have to consider other issues or points, even if it is favourable to the appellant. The appellant's decision not to reply to the affidavit filed by the second respondent is so damaging to his own case in objecting to the application of the striking out by the first respondent and more importantly, fatal. It is fatal as there is no answer by the appellant to what is asserted by H the first respondent.

[27] Perhaps because the appellant was unrepresented by counsel, this had caused him not to sufficiently appreciate the effect of *Ng Hee Thoong*. However, as much as we want to be kind, considerate and compassionate to someone without the assistance of an advocate and solicitor, our hands are I tied, as it is most unfortunate that the established principle of "ignorance of the law is no excuse" holds true both against represented and unrepresented litigants.

[28] Nonetheless, out of an abundance of caution, we shall now revert to Form 1 of the First Schedule of the ROCOA as alluded earlier and the submission of the first and second respondents that the appellant's notice of appeal is not in compliance with this form.

[29] The appellant's notice of appeals is as follows:

NOTIS RAYUAN

Sila ambil perhatian bahawa Perayu yang dinamakan di atas iaitu Lee Heng Yau yang tidak bersetuju Hakim Yang Arif Dato' Azmi bin Ariffin Salah guna kuasa Tidak setaraf dengan jawatan dan Pelanggaran KOD ETIKA HAKIM 1994 keputusan diberikan pada 28 haribulan July 2020. Merayu kepada Mahkamah Rayuan terhadap keseluruhan keputusan tersebut berkenaan TP Puan Fatimah Rubi'ah binti Ali salah guna kuasa terlibat Bersama-sama Puan Siti Nur Shafrida Binti Hashim Pengarah Insovensi Negeri. Pegawai Insovensi Puan Norliza Puan Sadila Suharti dan Puan Noorhidayah Binti Shamsuddin terlibat Bankrap Perintah Judgment Tidak Sah bersama-sama OCBC Bank (M) Berhad (295400-W) Menipu, Mencuri Rompak Dan Pecah Amanah Di Mahkamah dengar kes ini.

2. Saya tidak boleh tulis, saya tulis pun tidak boleh lengkap. Minta maaf. Notis Rayuan ini, dan Surat dan Rekod Rayuan Afidavit-Afidavit jika tidak faham sila telipon 012 203 6557 kepada saya, saya boleh dijelaskan. Kami percakapan mohon tuliskan Q & A kami. Saya boleh hadir mesyuarat. Boleh Bantu Negara lajukan dan sumbangan kepada rakyat, masyarakat dan negara.

3. Saya sudah mencari banyak peguam tetapi Peguam-peguam tidak mau Wakil. Saya dan menulis aduan untuk saya sebab peguam banyak menipu curi dan pecah amanah sahaja diMahkamah dan mana-mana tempat & lain-lain tempat. Tidak mahu sumbangan kepada rakyat masyarakat dan Negara, Peguam rosakkan Negara kita.

4. Bicara Hakim Dalam bilik pada 25.02.2020 Yang Arif Hakim Dato' Azmi bin Ariffin cakap saya seperti berikut:

4.1 Saya mahu rujuk kepada YA Hakim JILID 1 Afidavit Balasan pada 23 Sep 2019 muka surat 1-311, YA Hakim cakap tidak perlu YA Hakim cakap baca Notis Rayuan kepada Hakim Dalam Kamar pada 18.11.2019 sudah? ...

4.2. Saya mahu rujuk kepada YA Hakim JILID 2 Lampiran A m.s. 178, Lampiran C m.s 509-670. Afidavit Balasan Tambahan 2 pada 31 Dec 2019 m.s 352-478, YA Hakim cakap tidak perlu YA Hakim cakap baca Notis Rayuan kepada Hakim Dalam Kamar pada 18.11.2019 sudah? ...

4.3. Saya mahu rujuk kepada YA Hakim Afidavit Balasan Tambahan pada 26 Sep 2019 m.s 313-321 YA Hakim cakap baca Notis Rayuan kepada Hakim Dalam kamar pada 18.11.2019 sudah? ...

4.4. Saya mahu rujuk kepada YA Hakim Afidavit Balasan Tambahan pada 17 Oct 2019 m.s 322-341 YA Hakim cakap tidak perlu YA Hakim cakap baca Notis Rayuan kepada Hakim Dalam Kamar pada 18.11.2019 sudah? ...

4.5. Saya mahu rujuk kepada YA Hakim Afidavit Balasan Tambahan 2 pada 31 Dec 2019 m.s 352-478 YA Hakim cakap tidak perlu YA Hakim cakap baca Notis Rayuan kepada Hakim Dalam Kamar pada 18.11.2019 sudah? ...

4.6. Saya mahu rujuk kepada YA Hakim Afidavit Balasan Tambahan 3 pada 28 Jan 2020 m.s 493-515 YA Hakim cakap tidak perlu YA Hakim cakap baca Notis Rayuan kepada Hakim Dalam Kamar pada 18.11.2019 sudah? ...

4.7. Ocbc Bank (M) Berhad (259400-W) Wakil Tong Mei Hsien (No. K/P: 710224-10-5650) Afidavit Jawapan Pemiutang Penghakiman Pada 18 Feb 2020 cacat. Peguam Wakil Ocbc Bank bicara pada 25.2.2020 jadi bisu?

4.8. Berkenaan Notis di JILID 1 m.s 246-251 Permohonan Bagi Pemeriksaan Awam Bankrap bertarikh 11 Jul 2019 Puan Siti Nur Shafrida Binti Hashim Pengarah Insolvensi Negeri. Pengarah Mohon tidak betul bersama-sama Ocbc Bank (M) Berhad (295400-W) Menipu, Mencuri Dan Pecah Amanah Di Mahkamah.

4.9. Berkenaan Notis di JILID 1 m.s 246-251 Permohonan Bagi Pemeriksaan Awam Bankrap bertarikh 11 Jul 2019 Puan Siti Nur Shafrida Binti Hashim Puan Fatimah Rubi'ah binti AN Menipu, Mencuri Dan Pecah Amanah Di Mahkamah.

4.10 Berkenaan Notis di JILID m.s 246-251 Permohonan Bagi Pemeriksaan Awam Bankrap bertarikh 11 Jul 2019 Puan Siti Nur Shafrida Binti Hashim Pengarah Insolvensi Negeri. Pengarah Mohon tidak betul bersama-sama dengan jawatan dan Pelanggaran KOD ETIKA HAKIM 1994 Menipu, Mencuri Dan Pecah Amanah Di Mahkamah (Afidavit Balasan Tambahan 3 pada 28 Jan 2020 m.s 493-515 di depan TP Puan Fatimah Rubi'ah binti AN. Saya cakap TP Puan Fatimah Rubi'ah binti Ali tidak mahu tulis saya cakap di nota prosiding m.s 509-515? ... Nota prosiding tidak betul sebab saya tidak mahu tandatangan di depan TP Puan Fatimah Rubi'ah binti Ali? ... Puan Siti Nur Shafrida Binti Hashim Pengarah Insolvensi Negeri bersama-sama TP Puan Fatimah Rubi'ah binti Ali? ... Puan Siti Nur Shafrida Binti Hashim Pengarah Insolvensi Negeri bersama-sama TP Puan Fatimah Rubi'ah binti Ali Menipu, Mencuri Dan Pecah Amanah Di Mahkamah dan bersama-sama YA Hakim pada 28.07.2020

4.11 Wakil Pengarah Insolvensi Negeri Puan Siti Nur Shafrida Binti Hashim bersama-sama OCBC BANK (M) BERHAD 295400-W). MENIPU, MENCURI ROMPAK DAN PECAH AMANAH DI MAHKAMAH TIDAK Ada Afidavit jawapan jawapan Perenggan 4.1 hingga 4.6 dan 4.7 bicara pada 25.2.2020 Hakim Dalam bilik jadi bisu? ...

5. Bicara Hakim Dalam bilik pada 25.02.2020 dan keputusan mahkamah terbuka pada 2.07.2020 Yang Arif Hakim Dato' Azmi bin Ariffin salah guna kuasa DAN Tidak setaraf dengan jawatan Pelanggaran KOD ETIKA HAKIM 1994 di sebut seperti berikut:

1 Kod etika ini bolehlah dinamakan Kod Etika Hakim 1994.

2(1) Kod etika ini hendaklah terpakai bagi seseorang hakim di sepanjang tempoh perkhidmatannya.

(2) Pelanggaran mana-mana peruntukan Kod Etika ini bolehlah dijadikan satu alasan bagi memecat seseorang hakim daripada jawatan.

3. Seseorang hakim tidak boleh:

(a) membelakangkan tugas-tugas kehakimannya demi kepentingan persendiriannya;

(b) berkelakuan dengan sedemikian cara yang mungkin menyebabkan kepentingan persendiriannya bercanggah dengan tugas-tugas kehakimannya;

(c) berkelakuan dengan apa-apa cara yang mungkin menyebabkan syak yang munasabah bahawa:

(i) dia telah membiarkan kepentingan persendiriannya bercanggah dengan tugas-tugas kehakimannya hingga menjejaskan kegunaannya sebagai seorang hakim; atau

(ii) dia telah menggunakan kedudukan kehakimannya bagi faedahnya sendiri;

(d) berkelakuan tidak jujur atau dengan sedemikian cara hingga memburukkan nama atau mencemarkan nama Badan Kehakiman;

(e) kurang cekap atau kurang berusaha;

(f) sesungguhnya dan tanpa penjelasan yang munasabah melengah-lengahkan menyelesai kes-kes, memberi keputusan-keputusan dan menulis alasan-alasan penghakiman;

(g) enggan mematuhi sesuatu perintah pentadbiran yang patut atau enggan mematuhi apa-apa arahan statutory;

6. Bicara Hakim Dalam bilik pada 25.02.2020 dan keputusan makamah terbuka pada 28.07.2020 Yang Arif Hakim Dato' Azmi bin Ariffin salah guna kuasa DAN Tidak setaraf dengan jawatan Pelanggaran KOD ETIKA HAKIM 1994 di sebut seperti berikut:

(a) Saya bantahan awak cakap Yang Arif Hakim Dato' Azmi bin Ariffin dan Puan Fatimah Rubi'ah binti AN Bankrap Perintah Judgment Tidak Sah OCBC Bank (M) Berhad (295400-w) Menipu, Mencuri Rompak Dan Pecah Amanah Di Mahkamah dengar kes ini, Puan Fatimah Rubi'ah binti Ali salah guna kuasa gagal tidak mahu

tindakan OCBC Bank (M) Berhad (295400-W) Menipu, Mencuri Rompak Dan Pecah Amanah Di Mahkamah dan OCBC Bank dan wakil tidak hadir di mahkamah pada 11.09.2019 dan 01.10.2019 tetapi Puan Fatimah Rubi'ah binti Ali janji tulis Nota keterangan dan Alasan Penghakiman. Sudah dijerahkan Puan Fatimah Rubi'ah binti Ali salah guna kuasa terlibat melanggar, bercanggah dengan undang-undang Puan Fatimah Rubi'ah binti Ali Keadilan pun tak tahu cakap sudah Baca Afidavit Balasan pada 23.09.2019 JILID 1 m.s. 1 - 271 dan JILID 2 Lampiran-A m.s 1-35 Lampiran-B m.s 178 Lampiran-C m.s 509-670. baca Afidavit Balasan Tambahan pada 26.09.2019 JILID 1 m.s 313-315 dan sudah baca Afidavit Balasan Tambahan 1 pada 17.10.2019 m.s 322-341. Tidak boleh kerja jangan rosakkan Negara kita. Jabatan Insolvensi notis saya terima pada 06.09.2019 jabatan insolvensi notis diJILID 1 Afidavit Balasan pada 23.09.2018 m.s 246 hingga 251 semua 6 pes tidak ada lain-lain dokumen sokongan kepada saya. Pada 11.09.2019. 01.10.2019 saya mohon Puan Fatimah Rubi'ah binti Ali Bankrap Perintah Judgment satu Salinan kepada saya hingga hari ini saya belum terima lagi. Tidak fail di mahkamah.

(b) Pada 06.11.2019 Shook Lin Bok Peguam Wakil OCBC Bank (M) Berhad (295400-W) Menipu, Mencuri Rompak Dan Pecah Amanah Di Mahkamah Peguam Wakil OCBC Bank cakap Puan Fatimah Rubi'ah binti Ali Semalam saya terima jabatan insolvensi notis hadir di mahkamah hari ini. Pada 11.09.2019 dan 01.10.2019 Pegawai Insolvensi notis hadir di mahkamah hari ini. Pada 11.09.2019 dan 01.10.2019 Pegawai Insolvensi Puan Norliza Puan Sadila Suharti dan Puan Noorhidayah Binti Shamsuddin cakap notis sudah hantar kepada OCBC Bank OCBC Bank tidak hadir di mahkamah pada 11.09.2019 dan 01.10.2019 Peguam Wakil Ocbc Bank cakap Puan Fatimah Rubi'ah binti Ali semalam saya terima jabatan insolvensi notis

(c) di Afidavit Balasan Tambahan 3 pada 28 Jan 2020 m.s 497-503 Puan FAtimah Rubi'ah binti Ali tidak masuk Nota Prosiding Perenggan d, e dan f salah guna kuasa terlibat bersama-sama Puan Shafrida Binti Hashim Pengarah Insovensi Negeri. Pegawai Insolvensi Puan Norliza Puan Sadila Suharti dan Puan Noorhidayah Binti Shamsuddin terlibat Bankrap Perintah Judgment Tidak Sah bersama-sama Ocbc Bank (M) Berhad (295400-W) Menipu, Mencuri Rompak Dan Pecah Amanah Di Mahkamah dengar kes ini, (Puan Fatimah Rubi'ah binti Ali Nota Prosiding tidak ada tandatangan m.s 497-503) sepeti berikut:

(d) di Afidavit Balasan Tambahan 3 pada 28 Jan 2020 m.s 497-503 TP Puan dan YA Hakim tidak masuk Nota Prosiding Perenggan e dan f Berkenaan Saya Lee Heng Yau ada 40 Hartanah di Mukim Pertang, Daerah Jelebu, Negeri Sembilan 26.03.1997 perenggan 1 hingga 40 dan 2 Hartanah Saya di Mukim Buloh Kasap Johor perenggan 41 dan 42 seperti berikut:

1	4654	No. H.S. (D) 2697 No. P.T 1037 Luas Sementara 7012m2 24127-96
2	4655	No. H.S. (D) 2698 No. P.T 1038 Luas Sementara 8549m2 24127-96
3	4660	No. H.S. (D) 2703 No. P.T 1043 Luas Sementara 8410m2 24127-96
4	4661	No. H.S. (D) 2704 No. P.T 1044 Luas Sementara 7327m2 24127-96
5	4662	No. H.S. (D) 2705 No. P.T 1045 Luas Sementara 9355m2 24127-96
6	4663	No. H.S. (D) 2706 No. P.T 1046 Luas Sementara 7015m2 24127-96
7	4668	No. H.S. (D) 2710 No. P.T 1050 Luas Sementara 311m2 24127-96
8	4669	No. H.S. (D) 2711 No. P.T 1051 Luas Sementara 297m2 24127-96
9	4670	No. H.S. (D) 2712 No. P.T 1052 Luas Sementara 297m2 24127-96
10	4671	No. H.S. (D) 2713 No. P.T 1053 Luas Sementara 297m2 24127-96
11	4672	No. H.S. (D) 2714 No. P.T 1054 Luas Sementara 297m2 24127-96
12	4673	No. H.S. (D) 2715 No. P.T 1055 Luas Sementara 297m2 24127-96
13	4674	No. H.S. (D) 2716 No. P.T 1056 Luas Sementara 297m2 24127-96
14	4675	No. H.S. (D) 2717 No. P.T 1057 Luas Sementara 311m2 24127-96
15	4676	No. H.S. (D) 2718 No. P.T 1058 Luas Sementara 311m2 24127-96
16	4677	No. H.S. (D) 2719 No. P.T 1059 Luas Sementara 297m2 24127-96
17	4678	No. H.S. (D) 2720 No. P.T 1060 Luas Sementara 297m2 24127-96
18	4679	No. H.S. (D) 2721 No. P.T 1061 Luas Sementara 297m2 24127-96
19	4680	No. H.S. (D) 2722 No. P.T 1062 Luas Sementara 297m2 24127-96
20	4681	No. H.S. (D) 2723 No. P.T 1063 Luas Sementara 297m2 24127-96
21	4682	No. H.S. (D) 2724 No. P.T 1064 Luas Sementara 297m2 24127-96
22	4683	No. H.S. (D) 2725 No. P.T 1065 Luas Sementara 311m2 24127-96
23	4684	No. H.S. (D) 2726 No. P.T 1066 Luas Sementara 294m2 24127-96
24	4685	No. H.S. (D) 2727 No. P.T 1067 Luas Sementara 297m2 24127-96
25	4686	No. H.S. (D) 2728 No. P.T 1068 Luas Sementara 297m2 24127-96
26	4687	No. H.S. (D) 2729 No. P.T 1069 Luas Sementara 297m2 24127-96
27	4688	No. H.S. (D) 2730 No. P.T 1070 Luas Sementara 297m2 24127-96
28	4689	No. H.S. (D) 2731 No. P.T 1071 Luas Sementara 297m2 24127-96
29	4690	No. H.S. (D) 2732 No. P.T 1072 Luas Sementara 297m2 24127-96
30	4691	No. H.S. (D) 2733 No. P.T 1073 Luas Sementara 297m2 24127-96
31	4692	No. H.S. (D) 2734 No. P.T 1074 Luas Sementara 294m2 24127-96
32	4693	No. H.S. (D) 2735 No. P.T 1075 Luas Sementara 294m2 24127-96
33	4694	No. H.S. (D) 2736 No. P.T 1076 Luas Sementara 297m2 24127-96
34	4695	No. H.S. (D) 2737 No. P.T 1077 Luas Sementara 297m2 24127-96
35	4696	No. H.S. (D) 2738 No. P.T 1078 Luas Sementara 297m2 24127-96

36	4697	No. H.S. (D) 2739 No. P.T 1079 Luas Sementara 297m2 24127-96
37	4698	No. H.S. (D) 2740 No. P.T 1080 Luas Sementara 297m2 24127-96
38	4699	No. H.S. (D) 2741 No. P.T 1081 Luas Sementara 297m2 24127-96
39	4700	No. H.S. (D) 2742 No. P.T 1082 Luas Sementara 297m2 24127-96
40	4701	No. H.S. (D) 2743 No. P.T 1083 Luas Sementara 297m2 24127-96
41		EMR 1729 Lot 2281 Nukim Buloh Kasap Johor
42		MG 10 Lot 3387 Mukim Buloh Kasap Johor

(e) TP Puan dan YA Hakim tidak masuk Nota Prosiding Saya Lee Heng Yau ada tunai 2 juta lebih di Brilliantech Sdn Bhd (138578-K) dan aset-aset tanah kilang anggaran 100 juta lebih di Afidavit Balasan Tambahan 3 pada 28 Jan 2020 m.s 497-503 (Puan Fatimah Rubi'ah binti Ali Nota Prosiding tidak ada tanda-tangan m.s 497-503)

(f) TP Puan dan YA Hakim tidak masuk Nota Prosiding Saya Lee Heng Yau ada No. Hakmilik 00002837 No. Lot 0034554 dan PT 4031 di Afidavit Balasan Tambahan 3 pada 28 Jan 2020 m.s 497-503 (Puan Fatimah Rubi'ah binti Ali Nota Prosiding tidak ada tandatangan m.s 497-503)

(g) Grand Mission Sdn Bhd (612885-U) saya tidak ada saham Pegawai Insolvensi Puan Norliza Puan Sadila Suharti dan Puan Noorhidayah Binti Shamsuddin cakap banyak-banyak di depan Puan Fatimah Rubi'ah binti Ali. Grand Mission Sdn Bhd (612885-U) satu saham saya adik sudah mohon lebih kurang 9 tahun lebih surat kepada Pegawai Insolvensi gagal tidak mahu buat kerja, tidak mahu lepas saya satu saham, kasi saya susah saya mohon Bantu Sara Hidup (BSH) 2019, saya tidak boleh dapat bantuan sara hidup

(h) Oleh Mahkamah Puan Fatimah Rubi'ah binti Ali bantu jabatan insolvensi HQ Pegawai Insolvensi Pn Norliza, HQ Pegawai Insolvensi Pn Sadila Suharti dan Mdl Selangor Pegawai Insolvensi Pn Noorhidayah Binti Shamsuddin Saya cakap pegawai insolvensi soalan sepatut pegawai insolvensi jawab soalan saya Mahkamah Puan Fatimah Rubi'ah binti Ali tolong jabatan insolvensi Jawab soalan saya?

(i) Saya akan cakap di mahkamah terbuka Jerahkan penuh perbicaraan berkenaan perenggan-perenggan ini.

(j) Saya mohon Hakim arahan Oleh Ketua Pengarah Insolvensi Untuk Suatu Perintah Menetapkan Persidangan Bagi Pemeriksaan OCBC Bank (M) Berhad (2955400-W). Menipu, Mencuri Rompak Dan Pecah Amanah Di Mahkamah.

(k) Saya mohon Hakim batalkan Bankrap perintah dan Judgment Tidak Sah OCBC Bank (M) Berhad (295400-W) Menipu, Mencuri Rompak Dan Pecah Amanah Di Mahkamah dengar kes ini Dalam Perkara Kebankrapan No. 29-4755-2005 Menipu, Mencuri Dan

Pecah Amanah Di Mahkamah. (baca No. 22-197 Tahun 2000 Perintah pada 07.10.2004 m.s 12-16 Menipu, Mencuri Dan Pecah Amanah di Mahkamah)

(l) Saya mohon Hakim atau batalkan "Permohonan Oleh Ketua Pengarah Insolvensi Untuk Suatu Perintah Menetapkan Persidangan Bagi Pemeriksaan Awam Bankrap bertarikh 11.07.2019 (Bicara @ Timbalan Pendaftar 08.08.2019 jam 9.00am)" Saya mohon satu Salinan sokongan

(m) Saya mohon Hakim tindakan Puan Siti Nur Shafrida Binti Hashim Pengarah Insovensi Negeri, Jabatan Insolvensi HQ Pegawai Insolvensi Pn Norliza, HQ Pegawai Insolvensi Pn Sadila Suharti dan Mdl Selangor Pegawai Insolvensi Pn Noorhidayah Binti Shamsuddin bersama-sama OCBC Bank (M) Berhad (295400-W) Menipu, Mencuri Rompak dan Pecah Amanah Di Mahkamah dengar kesini Dalam Perkara Kebankrapan No. 29-4755-2005,

(n) Saya mohon Hakim tindakan Puan Fatimah Rubi'ah binti Ali salah guna kuasa di mahkamah dan tidak tahu keadilan, Tidak boleh kerja jangan rosakkan Negara kita.

(o) Saya mohon Hakim tindakan Puan Fatimah Rubi'ah binti Ali, Pada 06.11.2019 Puan Fatimah Rubi'ah binti Ali tidak tindakan Peguam Wakil OCBC Bank (M) Berhad (295400-W) Menipu, Mencuri Rompak Dan Pecah Amanah Di Mahkamah, Puan Fatimah Rubi'ah binti Ali tanya Peguam wakil OCBC Bank (M) Berhad hari ini baru hadir di mahkamah Peguam Wakil OCBC Bank cakap Notis semalam baru terima? Puan Fatimah Rubi'ah binti Ali tidak tanya soalan Peguam wakil OCBC Bank (M) Berhad Menipu, Mencuri Rompak Dan Pecah Amanah Di Mahkamah Bankrap Perintah dan Judgment Tidak Sah?

(p) Berkenaan Akta Profesion Undang-Undang 1976 (Akta 166) Seksyen 99. Aduan-aduan terhadap peguambela dan peguamcara atau pelatih. (2) Mana-mana mahkamah, Hakim, Hakim Mahkamah Sesyen atau atau Majistret atau Peguam Negara boleh pada bila-bila masa merujukkan kepada Lembaga Tatatertib apa-apa aduan yang dibuat terhadap seseorang peguambela dan peguamcara atau pelatih.

(q) Berkenaan Kaedah-kaedah Profesion Undang-undang (Amalan dan Kesopanan), 1978 "Seksyen 26. Peguambela dan Peguamcara tidak boleh mengelirukan. Seseorang peguambela dan peguamcara hendaklah mengelakkan segala perkara yang boleh menglirukan pihak yang tidak diwakili oleh peguam".

(r) Puan Siti Nur Shafrida Binti Hashim Pengarah Insolvensi Negeri bersama Peguam-peguam Wakil OCBC Bank (M) Berhad (295400-W) Yang jahat mencuri, Menipu Rompak dan Pecah Amanah di mahkamah. Saya akan cakap di mahkamah terbuka jerahkan penuh pada perbicaraan berkenaan perenggan-perenggan semua jika tidak faham saya boleh jelaskan di mahkamah terbuka.

A (s) Berkenaan KOD ETIKA HAKIM 1994 seksyen 2(1), (2), 3. Seseorang hakim tidak boleh: (a) (b) (c) (i) (ii) (d) (e) (f) (g) di JILID 1 m.s 70-71

(t) Saya tidak boleh tulis, saya tulis pun tidak boleh lengkap, minta maaf. Notis Rayuan, Rekod Rayuan, Surat dan Afidavit-Afidavit jika tidak faham sila telipon 012-203 6557 kepada saya, saya boleh dijelaskan. Kami percakapan mohon tuliskan Q & A kami. Saya boleh hadir mesyuarat, boleh Bantu Negara laju dan sumbangan kepada rakyat, masyarakat dan negara.

(u) Saya sudah mencari banyak peguam tetapi Peguam-peguam tidak mau Wakil Saya dan menulis aduan untuk saya sebab peguam banyak menipu curi dan pecah amanah sahaja di Mahkamah dan mana-mana tempat & lain-lain tempat. Tidak mahu sumbangan kepada rakyat masyarakat dan Negara, Peguam rosakkan Negara kita.

D 7. Saya akan cakap dimahkamah Rayuan terbuka Jerahkan penuh perbicaraan berkenaan perenggan-perenggan ini.

8. apa-apa perintah Mahkamah yang mulia ini fikirkan adil dan wajar.

[30] Therefore, after viewing and studying the same, we are of the view that the notice of appeal filed by the appellant is not at all according to the E format as required in Form 1 of the First Schedule of the ROCOA. Juxtaposing both, there can be no doubt in our mind there is a huge difference between the two. As a consequence, with respect to the appellant, we could not say that the appellant's notice of appeal is in conformity with Form 1 of the First Schedule of the ROCOA.

F **[31]** The Court of Appeal in the case of *A Santamil Selvi Alau Malay & Ors v. Dato' Seri Mohd Najib Tun Abdul Razak & Ors* [2015] 4 CLJ 1016 notes the strict requirement that the notice of appeal must follow Form 1 of the First Schedule of the ROCOA. Abdul Rahman Sebli JCA (now CJSS) in delivering judgment held as follows:

G It is a statutory requirement that the notice of appeal must be in the prescribed Form 1 of First Schedule of r. 5 of the Rules of the Court of Appeal 1994 ('the RCOA').

[32] Hence, there is merit in the contention of the first and second respondents against the appellant on this issue.

H **[33]** In determining the above, we were also referred most fairly by the first respondent of the stipulation in r. 3A of the ROCOA which states:

A Court or Judge shall not allow any preliminary objection by any party only on the ground of non-compliance of any of these Rules unless the I Court or Judge is of the opinion that such noncompliance has occasioned a substantial miscarriage of justice.

[34] Having given anxious thought to the above, with regret, we are constrained to say that in this case, there is indeed a substantial miscarriage of justice in the appellant not complying with Form 1 of the First Schedule of the ROCOA. We say this because not only the appellant was lackadaisical in respect of complying with this form, we are also of the finding, the appellant's notice of appeal is gibberish, incomprehensible and a mixture of all sorts of allegations levelled against the lower court.

[35] Hence, there is a miscarriage of justice not only to both respondents but also to this court. This is evident as the notice of appeal could not assist both respondents to appreciate and fully prepare themselves for the appeal. In addition, even this court as the appellate court entrusted to hear the appeal is put in a very difficult position to understand and appreciate the extent and scope of the appeal.

[36] In any event, as explained, *Santamil Selvi* clearly requires the notice of appeal must be in the format as in Form 1 of the First Schedule of the ROCOA. Thus, at best whether there is a substantial miscarriage of justice becomes secondary as *Santamil Selvi* had made it a mandatory condition that the notice of appeal be in the required format.

[37] That is not all regarding the non-compliance of the intended appeal by the appellant. In addition, the memorandum of appeal is also objectionable to both respondents. This is because the same is not in the format as required by r. 18(3) of the ROCOA which reads:

> The memorandum of appeal shall be substantially in Form 3 in the First Schedule.

[38] While Form 3 in the First Schedule of the ROCOA is as shown below:

IN THE COURT OF APPEAL OF MALAYSIA

(Appellate Jurisdiction)

Civil Appeal No ..... of 19 .....

Between A.B ..... Appellant

and

CD ..... Respondent

(In the matter of No ..... of 19 .....

in the High Court in ..... at ..... Between

.....

and

.....)

MEMORANDUM OF APPEAL

A.B. the Appellant above-named appeals to the Court of Appeal against the whole/part of the decision of the Honourable Mr. Justice ..... given at ..... on the ..... day of 19 ..... on the following grounds:

(Set out in numbered paragraphs)

Dated this ..... day of ..... 19 .....

.....

Appellant Solicitor for the Appellant

[39] While the memorandum of appeal filed by the appellant is as follows:

MEMORANDUM RAYUAN

1. Saya tidak boleh tulis, saya tulis pun tidak boleh lengkap. minta maaf. Notis Rayuan ini, dan Surat dan Rekod Rayuan Afidavit-Afidavit jika tidak faham sila telipon 012 203 6557 kepada saya, saya boleh dijelaskan. Kami percakapan mohon tuliskan Q & A kami. saya boleh hadir mesyuarat. boleh Bantu Negara lajukan dan sumbangan kepada rakyat, masyarakat dan negara.

2. Saya sudah mencari banyak peguam tetapi Peguam-peguam tidak mau Wakil. Saya dan menulis aduan untuk saya sebab peguam banyak menipu curi dan pecah amanah sahaja di Mahkamah dan mana-mana tempat & lain-lain tempat. Tidak mahu sumbangan kepada rakyat masyarakat dan Negara, Peguam rosakkan Negara kita.

3. POHON 5 HAKIM DENGAR PERBICARAAN AKAN DATANG.

4. Yang Arif Dato' Azmi bin Ariffin keputusan diberikan pada 28 haribulan July 2020. Salah guna kuasa DAN Tidak setaraf dengan jawatan Pelanggaran KOD ETIKA HAKIM 1994 Terlibat curi tipu dan pecah amanah di sebut seperti berikut:

4.1. Bicara akan datang saya akan cakap di mahkamah terbuka.

4.2. Bicara akan datang Saya akan cakap di mahkamah terbuka TP Puan Fatimah Rubi'ah binti Ali salah guna kuasa terlibat bersama-sama Puan Siti Nur Shafrida Binti Hashim Pengarah Insolvensi Negeri. Pegawai Insolvensi Puan Norliza Puan Sadila Suharti dan Puan Noorhidayah Binti Shamsuddin terlibat Bankrap Perintah Judgment Tidak Sah bersama-sama OCBC Bank (M) Berhad (295400-W) Menipu, Mencuri Rompak Dan Pecah Amanah DiMahkamah dengar kes ini,

4.3. Bicara akan datang Saya akan cakap di mahkamah terbuka Yang Arif Hakim Dato' Azmi bin Ariffin salah guna kuasa terlibat bersama-sama Puan Siti Nur Shafrida Binti Hashim Pengarah Insolvensi Negeri. Pegawai Insolvensi Puan Norliza Puan Sadila Suharti dan Puan Noorhidayah Binti Shamsuddin terlibat Bankrap Perintah Judgment Tidak Sah bersama-sama OCBC Bank (M) Berhad (295400-W) menipu, Mencuri Rompak Dan Pecah Amanah Di Mahkamah dengar kes ini,

4.4. Yang Arif Hakim Dato' Azmi bin Ariffin tidak ada tulis Nota Keterangan ...

4.5. Yang Arif Hakim Dato' Azmi bin Ariffin Alasan Penghakiman m.s 2-11

4.6. Yang Arif Hakim Dato' Azmi Ariffin tidak ada tulis Nota Keterangan ...

4.7. Bicara akan datang saya akan cakap di mahkamah terbuka Penghakiman Perenggan PENDAHULUAN ... FAKTA RINGKAS ... PENGHUJAHAN JD (a) (b) (c) (d) (e) ... PENGHUJAHAN KPI (a) (b) (c) (d) (e). ISU BERBANGKIT.... DAPATAN MAHKAMAH .... KESIMPULAN ...

5. Sila ambil perhatian bahawa Perayu yang dinamakan di atas iaitu Lee Heng Yau yang tidak bersetuju Hakim Yang Arif Hakim Dato' Azmi bin Ariffin Salah guna kuasa tidak setaraf dengan jawatan dan Pelanggaran Kod Etika Hakim 1994 keputusan diberikan pada 28 haribulan July 2020. Merayu kepada Mahkamah Rayuan terhadap keseluruhan keputusan tersebut berkenaan TP Puan Fatimah Rubi'ah binti Ali salah guna kuasa terlibat bersama-sama Puan Siti Nur Shafrida dan Puan Noorhidayah Binti Shamsuddin terlibat Bankrap Perintah Judgment Tidak Sah bersama-sama Ocbc Bank (M) Berhad (295400-W) Menipu, Mencuri Rompak Dan Pecah Amanah di Mahkamah dengar kes ini.

6. Bicara Hakim dalam bilik pada 25.02.2020 Yang Arif Hakim Dato' Azmi bin Ariffin cakap saya seperti berikut:

6.1. Saya mahu rujuk kepada YA Hakim JILID 1 Afidavit Balasan pada 23 Sep 2019 muka surat 1-311, YA Hakim cakap tidak perlu YA Hakim cakap baca Notis Rayuan kepada Hakim Dalam Kamar pada 18.11.2019 sudah ...

6.2. Saya mahu rujuk kepada YA Hakim JILID 2 Lampiran A m.s. 178, Lampiran C m.s 509-670. Afidavit Balasan Tambahan 2 pada 31 Dec 2019 m.s 352-478, YA Hakim cakap tidak perlu YA Hakim cakap baca Notis Rayuan kepada Hakim Dalam Kamar pada 18.11.2019 sudah ...

6.3. Saya mahu rujuk kepada YA Hakim Afidavit Balasan Tambahan pada 26 Sep 2019 m.s 313-321 YA Hakim cakap baca Notis Rayuan kepada Hakim Dalam kamar pada 18.11.2019 sudah ...

6.4. Saya mahu rujuk kepada YA Hakim Afidavit Balasan Tambahan pada 17 Oct 2019 m.s 322-341 YA Hakim cakap tidak perlu YA Hakim cakap baca Notis Rayuan kepada Hakim Dalam Kamar pada 18.11.2019 sudah ...

6.5. Saya mahu rujuk kepada YA Hakim Afidavit Balasan Tambahan 2 pada 31 Dec 2019 m.s 352-478 YA Hakim cakap tidak perlu YA Hakim cakap baca Notis Rayuan kepada Hakim Dalam Kamar pada 18.11.2019 sudah ...

6.6. Saya mahu rujuk kepada YA Hakim Afidavit Balasan Tambahan 3 pada 28 Jan 2020 m.s 493-515 YA Hakim cakap tidak perlu YA Hakim cakap baca Notis Rayuan kepada Hakim Dalam Kamar pada 18.11.2019 sudah ...

6.7. OCBC BANK (M) BERHAD (259400-W) Wakil Tong Mei Hsien (No. K/P: 710224-10-5650) Afidavit Jawapan Pemiutang Penghakiman Pada 18 Feb 2020 cacat. Peguam Wakil Ocbc Bank bicara pada 25.2.2020 jadi bisu

6.8. Berkenaan Notis di JILID 1 m.s 246-251 Permohonan Bagi Pemeriksaan Awam Bankrap bertarikh 11 Jul 2019 Puan Siti Nur Shafrida Binti Hashim Pengarah Insolvensi Negeri. Pengarah Mohon tidak betul bersama-sama Ocbc Bank (M) Berhad (295400-W) Menipu, Mencuri Dan Pecah Amanah Di Mahkamah.

6.9. Berkenaan Notis di JILID 1 m.s 246-251 Permohonan Bagi Pemeriksaan Awam Bankrap bertarikh 11 Jul 2019 Puan Siti Nur Shafrida Binti Hashim Puan Fatimah Rubi'ah binti Ali Menipu, Mencuri Dan Pecah Amanah Di Mahkamah.

6.10 Berkenaan Notis di JILID m.s 246-251 Permohonan Bagi Pemeriksaan Awam Bankrap bertarikh 11 Jul 2019 Puan Siti Nur Shafrida Binti Hashim Pengarah Insolvensi Negeri. Pengarah Mohon tidak betul bersama-sama dengan jawatan dan Pelanggaran KOD ETIKA HAKIM 1994 Menipu, Mencuri Dan Pecah Amanah Di Mahkamah (Afidavit Balasan Tambahan 3 pada 28 Jan 2020 m.s 493-515 di depan TP Puan Fatimah Rubi'ah binti Ali. Saya cakap TP Puan Fatimah Rubi'ah binti Ali tidak mahu tulis saya cakap di nota prosiding m.s 509-515 ... Nota prosiding tidak betul sebab saya tidak mahu tandatangan di depan TP Puan Fatimah Rubi'ah binti Ali ... Puan Siti Nur Shafrida Binti Hashim Pengarah Insovensi Negeri bersama-sama TP Puan Fatimah Rubi'ah binti Ali ... Puan Siti Nur Shafrida Binti Hashim Penarah Insolvensi Negeri bersama-sama TP Puan Fatimah Rubi'ah binti Ali Menipu, Mencuri Dan Pecah Amanah Di Mahkamah dan bersama-sama YA Hakim pada 28.07.2020

6.11 Wakil Pengarah Insolvensi Negeri Puan Siti Nur Shafrida Binti Hashim bersama-sama OCBC BANK (M) BERHAD 295400-W). MENIPU, MENCURI ROMPAK DAN PECAH AMANAH DI MAHKAMAH TIDAK Ada Afidavit jawapan jawapan Perenggan 4.1 hingga 4.6 dan 4.7 bicara pada 25.2.2020 Hakim Dalam bilik jadi bisu ...

7. Bicara Hakim Dalam bilik pada 25.02.2020 dan keputusan mahkamah terbuka pada 2.07.2020 Yang Arif Hakim Dato' Azmi bin Ariffin salah guna kuasa DAN Tidak setaraf dengan jawatan Pelanggaran KOD ETIKA HAKIM 1994 di sebut seperti berikut:

1. Kod etika ini bolehlah dinamakan Kod Etika Hakim 1994.

2.1 Kod etika ini hendaklah terpakai bagi seseorang hakim di sepanjang tempoh perkhidmatannya.

2.2 Pelanggaran mana-mana peruntukan Kod Etika ini bolehlah dijadikan satu alasan bagi memecat seseorang hakim daripada jawatan.

3. Seseorang hakim tidak boleh:

(a) membelakangkan tugas-tugas kehakimannya demi kepentingan persendiriannya;

(b) berkelakuan dengan sedemikian cara yang mungkin menyebabkan kepentingan persendiriannya bercanggah dengan tugas-tugas kehakimannya;

(c) berkelakuan dengan apa-apa cara yang mungkin menyebabkan syak yang munasabah bahawa:

(iii) dia telah membiarkan kepentingan persendiriannya bercanggah dengan tugas-tugas kehakimannya hingga menjejaskan kegunaannya sebagai seorang hakim; atau

(iv) dia telah menggunakan kedudukan kehakimannya bagi faedahnya sendiri;

(d) berkelakuan tidak jujur atau dengan sedemikian cara hingga memburukkan nama atau mencemarkan nama Badan Kehakiman;

(e) kurang cekap atau kurang berusaha;

(f) sesungguhnya dan tanpa penjelasan yang munasabah melengah-lengahkan menyelesai kes-kes, memberi keputusan-keputusan dan menulis alasan-alasan penghakiman;

(g) enggan mematuhi sesuatu perintah pentadbiran yang patut atau enggan mematuhi apa-apa arahan statutory;

8. Bicara Hakim Dalam bilik pada 25.02.2020 dan keputusan makamah terbuka pada 28.07.2020 Yang Arif Hakim Dato' Azmi bin Ariffin salah guna kuasa DAN Tidak setaraf dengan jawatan pelanggaran KOD ETIKA HAKIM 1994 di sebut seperti berikut:

(a) Saya bantahan awak cakap Yang Arif Hakim Dato' Azmi bin Ariffin dan Puan Fatimah Rubi'ah binti Ali Bankrap Perintah Judgment Tidak Sah OCBC Bank (M) Berhad (295400-w) Menipu, Mencuri Rompak Dan Pecah Amanah Di Mahkamah dengar kes ini, PUan Fatimah Rubi'ah binti Ali salah guna kuasa gagal tidak mahu tindakan OCBC Bank (M) Berhad (295400-W) Menipu, Mencuri Rompak Dan Pecah Amanah Di Mahkamah dan OCBC Bank dan wakil tidak hadir di mahkamah pada 11.09.2019 dan 01.10.2019 tetapi Puan Fatimah Rubi'ah binti Ali janji tulis Nota keterangan

dan Alasan Penghakiman. Sudah dijerahkan Puan Fatimah Rubi'ah binti Ali salah guna kuasa terlibat melanggar, bercanggah dengan undang-undang Puan Fatimah Rubi'ah binti Ali Keadilan pun tak tahu cakap sudah Baca Afidavit Balasan pada 23.09.2019 JILID 1 m.s. 1 - 271 dan JILID 2 Lampiran-A m.s 1-35 Lampiran-B m.s 178 Lampiran-C m.s 509-670. baca Afidavit Balasan Tambahan pada 26.09.2019 JILID 1 m.s 313-315 dan sudah baca Afidavit Balasan Tambahan 1 pada 17.10.2019 m.s 322-341. Tidak boleh kerja jangan rosakkan Negara kita. Jabatan Insolvensi notis saya terima pada 06.09.2019 jabatan insolvensi notis diJILID 1 Afidavit Balasan pada 23.09.2018 m.s 246 hingga 251 semua 6pes tidak ada lain-lain dokumen sokongan kepada saya. Pada 11.09.2019. 01.10.2019 saya mohon Puan Fatimah Rubi'ah binti Ali Bankrap Perintah Judgment satu Salinan kepada saya hingga hari ini saya belum terima lagi. Tidak fail di mahkamah.

(b) Pada 06.11.2019 Shook Lin Bok Peguam Wakil OCBC Bank (M) Berhad (295400-W) Menipu, Mencuri Rompak Dan Pecah Amanah Di Mahkamah Peguam Wakil Ocbc Bank cakap Puan Fatimah Rubi'ah binti Ali Semalam saya terima jabatan insolvensi notis hadir di mahkamah hari ini. Pada 11.09.2019 dan 01.10.2019 Pegawai Insolvensi notis hadir di mahkamah hari ini. Pada 11.09.2019 dan 01.10.2019 Pegawai Insolvensi Puan Norliza Puan Sadila Suharti dan Puan Noorhidayah Binti Shamsuddin cakap notis sudah hantar kepada OCBC Bank OCBC Bank tidak hadir di mahkamah pada 11.09.2019 dan 01.10.2019 Peguam Wakil OCBC Bank cakap Puan Fatimah Rubi'ah binti Ali semalam saya terima jabatan insolvensi notis

(c) di Afidavit Balasan Tambahan 3 pada 28 Jan 2020 m.s 497-503 Puan FAtimah Rubi'ah binti Ali tidak masuk Nota Prosiding Perenggan d, e dan f salah guna kuasa terlibat bersama-sama Puan Shafrida Binti Hashim Pengarah Insolvensi Negeri. Pegawai Insolvensi Puan Norliza Puan Sadila Suharti dan Puan Noorhidayah Binti Shamsuddin terlibat Bankrap Perintah Judgment Tidak Sah bersama-sama OCBC Bank (M) Berhad (295400-W) Menipu, Mencuri Rompak Dan Pecah Amanah Di Mahkamah dengar kes ini, (Puan Fatimah Rubi'ah binti Ali Nota Prosiding tidak ada tandatangan m.s 497-503) sepeti berikut:

(d) di Afidavit Balasan Tambahan 3 pada 28 Jan 2020 m.s 497-503 TP Puan dan YA Hakim tidak masuk Nota Prosiding Perenggan e dan f Berkenaan Saya Lee Heng Yau ada 40 Hartanah di Mukim Pertang, Daerah Jelebu, Negeri Sembilan 26.03.1997 perenggan 1 hingga 40 dan 2 Hartanah Saya di Mukim Buloh Kasap Johor perenggan 41 dan 42 seperti berikut:

1	4654	No. H.S. (D) 2697 No. P.T 1037 Luas Sementara 7012m2 24127-96
2	4655	No. H.S. (D) 2698 No. P.T 1038 Luas Sementara 8549m2 24127-96
3	4660	No. H.S. (D) 2703 No. P.T 1043 Luas Sementara 8410m2 24127-96
4	4661	No. H.S. (D) 2704 No. P.T 1044 Luas Sementara 7327m2 24127-96
5	4662	No. H.S. (D) 2705 No. P.T 1045 Luas Sementara 9355m2 24127-96
6	4663	No. H.S. (D) 2706 No. P.T 1046 Luas Sementara 7015m2 24127-96
7	4668	No. H.S. (D) 2710 No. P.T 1050 Luas Sementara 311m2 24127-96
8	4669	No. H.S. (D) 2711 No. P.T 1051 Luas Sementara 297m2 24127-96
9	4670	No. H.S. (D) 2712 No. P.T 1052 Luas Sementara 297m2 24127-96
10	4671	No. H.S. (D) 2713 No. P.T 1053 Luas Sementara 297m2 24127-96
11	4672	No. H.S. (D) 2714 No. P.T 1054 Luas Sementara 297m2 24127-96
12	4673	No. H.S. (D) 2715 No. P.T 1055 Luas Sementara 297m2 24127-96
13	4674	No. H.S. (D) 2716 No. P.T 1056 Luas Sementara 297m2 24127-96
14	4675	No. H.S. (D) 2717 No. P.T 1057 Luas Sementara 311m2 24127-96
15	4676	No. H.S. (D) 2718 No. P.T 1058 Luas Sementara 311m2 24127-96
16	4677	No. H.S. (D) 2719 No. P.T 1059 Luas Sementara 297m2 24127-96
17	4678	No. H.S. (D) 2720 No. P.T 1060 Luas Sementara 297m2 24127-96
18	4679	No. H.S. (D) 2721 No. P.T 1061 Luas Sementara 297m2 24127-96
19	4680	No. H.S. (D) 2722 No. P.T 1062 Luas Sementara 297m2 24127-96
20	4681	No. H.S. (D) 2723 No. P.T 1063 Luas Sementara 297m2 24127-96
21	4682	No. H.S. (D) 2724 No. P.T 1064 Luas Sementara 297m2 24127-96
22	4683	No. H.S. (D) 2725 No. P.T 1065 Luas Sementara 311m2 24127-96
23	4684	No. H.S. (D) 2726 No. P.T 1066 Luas Sementara 294m2 24127-96
24	4685	No. H.S. (D) 2727 No. P.T 1067 Luas Sementara 297m2 24127-96
25	4686	No. H.S. (D) 2728 No. P.T 1068 Luas Sementara 297m2 24127-96
26	4687	No. H.S. (D) 2729 No. P.T 1069 Luas Sementara 297m2 24127-96
27	4688	No. H.S. (D) 2730 No. P.T 1070 Luas Sementara 297m2 24127-96
28	4689	No. H.S. (D) 2731 No. P.T 1071 Luas Sementara 297m2 24127-96
29	4690	No. H.S. (D) 2732 No. P.T 1072 Luas Sementara 297m2 24127-96
30	4691	No. H.S. (D) 2733 No. P.T 1073 Luas Sementara 297m2 24127-96
31	4692	No. H.S. (D) 2734 No. P.T 1074 Luas Sementara 294m2 24127-96
32	4693	No. H.S. (D) 2735 No. P.T 1075 Luas Sementara 294m2 24127-96
33	4694	No. H.S. (D) 2736 No. P.T 1076 Luas Sementara 297m2 24127-96
34	4695	No. H.S. (D) 2737 No. P.T 1077 Luas Sementara 297m2 24127-96
35	4696	No. H.S. (D) 2738 No. P.T 1078 Luas Sementara 297m2 24127-96

36	4697	No. H.S. (D) 2739 No. P.T 1079 Luas Sementara 297m2 24127-96
37	4698	No. H.S. (D) 2740 No. P.T 1080 Luas Sementara 297m2 24127-96
38	4699	No. H.S. (D) 2741 No. P.T 1081 Luas Sementara 297m2 24127-96
39	4700	No. H.S. (D) 2742 No. P.T 1082 Luas Sementara 297m2 24127-96
40	4701	No. H.S. (D) 2743 No. P.T 1083 Luas Sementara 297m2 24127-96
41		EMR 1729 Lot 2281 Nukim Buloh Kasap Johor
42		MG 10 Lot 3387 Mukim Buloh Kasap Johor

(e) TP Puan dan YA Hakim tidak masuk Nota Prosiding Saya Lee Heng Yau ada tunai 2 juta lebih di Brilliantech Sdn Bhd (138578-K) dan aset-aset tanah kilang anggaran 100 juta lebih di Afidavit Balasan Tambahan 3 pada 28 Jan 2020 m.s 497-503 (Puan Fatimah Rubi'ah binti Ali Nota Prosiding tidak ada tandatangan m.s 497-503)

(f) TP Puan dan YA Hakim tidak masuk Nota Prosiding Saya Lee Heng Yau ada No. Hakmilik 00002837 No. Lot 0034554 dan PT 4031 di Afidavit Balasan Tambahan 3 pada 28 Jan 2020 m.s 497-503 (Puan Fatimah Rubi'ah binti Ali Nota Prosiding tidak ada tandatangan m.s 497-503)

(g) Grand Mission Sdn Bhd (612885-U) saya tidak ada saham Pegawai Insolvensi Puan Norliza Puan Sadila Suharti dan Puan Noorhidayah Binti Shamsuddin cakap banyak-banyak di depan Puan Fatimah Rubi'ah binti Ali. Grand Mission Sdn Bhd (612885-U) satu saham saya adik sudah mohon lebih kurang 9 tahun lebih surat kepada Pegawai Insolvensi gagal tidak mahu buat kerja, tidak mahu lepas saya satu saham, kasi saya susah saya mohon Bantu Sara Hidup (BSH) 2019, saya tidak boleh dapat bantuan sara hidup

(h) Oleh Mahkamah Puan Fatimah Rubi'ah binti Ali bantu jabatan insovensi HQ Pegawai Insovensi Pn Norliza, HQ Pegawai Insovensi Pn Sadila Suharti dan Mdl Selangor Pegawai Insolvensi Pn Noorhidayah Binti Shamsuddin Saya cakap pegawai insolvensi soalan sepatut pegawai insolvensi jawab soalan saya Mahkamah Puan Fatimah Rubi'ah binti Ali tolong jabatan insolvensi Jawab soalan saya?

(i) Saya akan cakap di mahkamah terbuka Jerahkan penuh perbicaraan berkenaan perenggan-perenggan ini.

(j) Saya mohon Hakim arahan Oleh Ketua Pengarah Insolvensi Untuk Suatu Perintah Menetapkan Persidangan Bagi Pemeriksaan Ocbc Bank (M) Berhad (2955400-W). Menipu, Mencuri Rompak Dan Pecah Amanah Di Mahkamah.

(k) Saya mohon Hakim batalkan Bankrap perintah dan Judgment Tidak Sah Ocbc Bank (M) Berhad (295400-W) Menipu, Mencuri Rompak Dan Pecah Amanah Di Mahkamah dengar kes ini Dalam Perkara

Kebankrapan No. 29-4755-2005 Menipu, Mencuri Dan Pecah Amanah Di Mahkamah. (baca No. 22-197 Tahun 2000 Perintah pada 07.10.2004 m.s 12-16 Menipu, Mencuri Dan Pecah Amanah di Mahkamah)

(l) Saya mohon Hakim atau batalkan "Permohonan Oleh Ketua Pengarah Insolvensi Untuk Suatu Perintah Menetapkan Persidangan Bagi Pemeriksaan Awam Bankrap bertarikh 11.07.2019 (Bicara @ Timbalan Pendaftar 08.08.2019 jam 9.00am)" Saya mohon satu Salinan sokongan

(m) Saya mohon Hakim tindakan Puan Situ Nur Shafrida Binti Hashim Pengarah Insovensi Negeri, Jabatan Insolvensi HQ Pegawai Insolvensi Pn Norliza, HQ Pegawai Insolvensi Pn Sadila Suharti dan Mdl Selangor Pegawai Insolvensi Pn Noorhidayah Binti Shamsuddin bersama-sama Ocbc Bank (M) Berhad (295400-W) Menipu, Mencuri Rompak dan Pecah Amanah Di Mahkamah dengar kesini Dalam Perkara Kebankrapan No. 29-4755-2005,

(n) Saya mohon Hakim tindakan Puan Fatimah Rubi'ah binti Ali salah guna kuasa di mahkamah dan tidak tahu keadilan, Tidak boleh kerja jangan rosakkan Negara kita.

(o) Saya mohon Hakim tindakan Puan Fatimah Rubi'ah binti Ali, Pada 06.11.2019 Puan Fatimah Rubi'ah binti Ali tidak tindakan Peguam Wakil Ocbc Bank (M) Berhad (295400-W) Menipu, Mencuri Rompak Dan Pecah Amanah Di Mahkamah, Puan Fatimah Rubi'ah binti Ali tanya Peguam wakil Ocbc Bank (M) Berhad hari ini baru hadir di mahkamah Peguam Wakil Ocbc Bank cakap Notis semalam baru terima? Puan Fatimah Rubi'ah binti Ali tidak tanya soalan Peguam wakil Ocbc Bank (M) Berhad Menipu, Mencuri Rompak Dan Pecah Amanah Di Mahkamah Bankrap Perintah dan Judgment Tidak Sah?

(p) Berkenaan Akta Profesion Undang-Undang 1976 (Akta 166) Seksyen "99. Aduan-aduan terhadap peguambela dan peguamcara atau pelatih. (2) Mana-mana mahkamah, Hakim, Hakim Mahkamah Sesyen atau atau Majistret atau Peguam Negara boleh pada bila-bila masa merujukkan kepada Lembaga Tatatertib apa-apa aduan yang dibuat terhadap seseorang peguambela dan peguamcara atau pelatih."

(q) Berkenaan Kaedah-kaedah Profesion Undang-undang (Amalan dan Kesopanan), 1978 "Seksyen 26. Peguambela dan Peguamcara tidak boleh mengelirukan. Seseorang peguambela dan peguamcara hendaklah mengelakkan segala perkara yang boleh mengelirukan pihak yang tidak diwakili oleh peguam".

(r) Puan Siti Nur Shafrida Binti Hashim Pengarah Insolvensi Negeri bersama Peguam-peguam Wakil Ocbc Bank (M) Berhad (295400-W) Yang jahat mencuri, Menipu Rompak dan Pecah Amanah di

A mahkamah. Saya akan cakap di mahkamah terbuka jerahkan penuh pada perbicaraan berkenaan perenggan-perenggan semua jika tidak faham saya boleh jelaskan di mahkamah terbuka.

(s) Berkenaan KOD ETIKA HAKIM 1994 seksyen 2(1), (2), 3. Seseorang hakim tidak boleh:- (a) (b) (c) (i) (ii) (d) (e) (f) (g) di JILID 1 m.s 70-71

B

(t) Saya tidak boleh tulis, saya tulis pun tidak boleh lengkap, minta maaf. Notis Rayuan, Rekod Rayuan, Surat dan Afidavit-Afidavit jika tidak faham sila telipon 012-203 6557 kepada saya, saya boleh dijelaskan. Kami percakapan mohon tuliskan Q & A kami. Saya boleh hadir mesuarat, boleh Bantu Negara laju dan sumbangan kepada rakyat, masyarakat dan negara.

C

(u) Saya sudah mencari banyak peguam tetapi Peguam-peguam tidak mau Wakil Saya dan menulis aduan untuk saya sebab peguam banyak menipu curi dan pecah amanah sahaja di Mahkamah dan mana-mana tempat & lain-lain tempat. Tidak mahu sumbangan kepada rakyat masyarakat dan Negara, Peguam rosakkan Negara kita.

D

9. Saya akan cakap di mahkamah Rayuan terbuka Jerahkan penuh perbicaraan berkenaan perenggan-perenggan ini.

E 10. Kaedah-Kaedah Profesion Undang-Undang (Amalan Dan Kesopanan), 1978 Seksyen 26. Peguambela dan peguamcara tidak boleh mengelirukan.

11. Akta Profesion Undang-undang 1976 (Akta 166) & Kaedah-Kaedah seksyen 99 Aduan-aduan terhadap peguambela dan peguamcara atau pelatih. (1) (2) dan (3).

F

12. Undang-Undang Malaysia Perlembagaan Persekutuan Kesama-rataan 8. (1) semua orang adalah sama di sisi undang-undang dan berhak mendapat perlindungan yang sama rata di sisi undang-undang.

13. Apa-apa perintah Mahkamah yang mulia ini fikirkan adil dan wajar.

G **[40]** Similarly, having viewed and studied the memorandum of appeal filed by the appellant, we have no doubt in saying that the same is not according to the format as in Form 3 in the First Schedule of the ROCOA.

[41] Thus, the appellant not only did not comply with the provision of the ROCOA in respect of the notice of appeal, he also with respect, failed to H comply with the provision of the ROCOA in respect of the memorandum of appeal.

[42] One non-compliance might still be excusable but two perhaps is asking for too much. In fact, there are several other non-compliance according to the first respondent as will be alluded hereafter.

I

[43] The first and second respondents submitted that the third non-compliance by the appellant is that the latter had failed to comply with the provision in r. 18(6) of the ROCOA which states:

> *A draft index of the documents to be included in the record of appeal shall be sent by the appellant's solicitors to the solicitors for the respondent who or (if more than one) any of whom may within forty-eight hours object to the inclusion or exclusion of any document.* In the event of the parties being unable to agree, the matter shall be referred to the Registrar of the High Court who may require the parties to attend before a Judge of the said Court. The Registrar of the High Court as well as the parties shall endeavour to exclude from the record all documents (more particularly such as are merely formal) that are not relevant to the subject matter of the appeal taking special care to avoid the duplication of documents and unnecessary repetition of headings and other merely formal parts of documents. Where in the course of preparation of the record one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party nevertheless insists on its being included, the record, as finally printed or typed shall, with a view to the subsequent adjustment of the costs of and incidental to such documents, indicate, in the index of papers, or otherwise, the fact that, and the party by whom, the inclusion of the document was objected to. (emphasis added)

[44] The respondents contended that the appellant did not send the draft index as required by the above provision. In this regard, the Court of Appeal case of *Mazni Ibrahim v. Rosaidy Effandy (Tetuan Khairil & Co)* [2013] 4 CLJ 453 is on a similar point where the draft was not served on the respondent and where it is held:

> The failure to serve the draft record of appeal upon the respondent before it was filed was a fundamental threat to the reliability of the record of appeal before the appellate courts. Without a record of appeal filed, the appeal was fundamentally defective. In the present case, the record of appeal filed in the High Court was incomplete, while the record of appeal in the present appeal suffered from the fundamental defect of the draft not having been served upon the respondent and containing a submission which the latter denied making. Hence, it was not made possible to show where the merits and justice lay.

[45] Thus, the failure of the appellant in our appeal to serve the draft index of the documents to be included in the record of appeal is similarly a serious non-compliance and should not be taken lightly.

[46] The fourth non-compliance by the appellant concerns r. 18(7) of the ROCOA which reads:

> The memorandum and copies referred to in subrule (4), which together shall be called the record of appeal, shall be filed at the Registry within ninety days from the date on which the decision appealed against was given.

[47] It is contended that the appellant had filed additional record of appeal (encl. 17) beyond 90 days as stipulated above and this additional record of appeal was received from the appellant also beyond the prescribed days. In this regard, the Court of Appeal case of *Hardial Singh Sekhon v. Talam Leasing Sdn Bhd* [2001] 3 CLJ 557 is relevant and where because of non-compliance of r. 18(7) of the ROCOA as shown above, the appeal was struck out. Similarly, the appeal lodged by the appellant in our case ought to be seriously questionable because of the non-compliance with this provision. In our present case too, the appellant did not apply for an extension of time to file the additional record of appeal.

[48] It is also further argued that the fifth non-compliance by the appellant is when the appellant did not include the sealed order of the HC and also the written submission of the first respondent in the record of appeal. In the above case law, *Hardial Singh Sekhon,* the appeal was struck out also because the sealed order of the lower court was not included in the record of appeal. Likewise, we are of the considered view this is another reason why there is merit to the submission of the respondents.

[49] It is also contended that there is a sixth non-compliance by the appellant. In this instance, it is contended that the appellant without the leave of the court had included in the appeal record, documents which were not adduced at the HC. These include the following:

(i) page 26 to 35 of the record of appeal (encl. 3);

(ii) page 6 to 13 record of appeal volume 3 (encl. 6); and

(iii) the whole of additional record of appeal 1 (encl. 17).

[50] The appellant in this regard had failed to adhere to s. 69(1) and (3) of the Courts of Judicature Act 1964 which respectively states:

> (1) Appeals to the Court of Appeal shall be by way of re-hearing, *and in relation to such appeals the Court of Appeal shall have all powers and duties,* as to amendment or otherwise, of the High Court, *together with full discretionary power to receive further evidence by oral examination in court or through a remote communication technology, by affidavit, or by deposition taken before an examiner or commissioner.*
>
> (3) Upon appeals from a judgment, after trial or hearing of any cause or matter upon the merits, the further evidence, save as to matters subsequent as aforesaid, shall be admitted on special grounds only, *and not without leave of the Court of Appeal.* (emphasis added)

[51] Similarly, provisions in r. 7(1) and 7(3) of the ROCOA that respectively reads:

(1) The Court shall have all the powers and duties, as to amendment or otherwise, of the appropriate High Court, together with full discretionary power to receive further evidence by oral examination in Court, by affidavit, or by deposition taken before an examiner or Commissioner.

(3) Upon appeals from a judgment, after trial or hearing of any cause or matter upon the merits, such further evidence, save as to matters subsequent as aforesaid, shall be admitted on special grounds only, and not without leave of the Court.

[52] In this regard, there are three strict conditions imposed before further evidence could be admitted as laid down by Lord Denning in the *locus classicus*, *Ladd v. Marshall* [1954] 3 All ER 745 which was adopted by our apex court in *Lau Foo Sun v. Government Of Malaysia* [1970] 1 LNS 56; [1970] 2 MLJ 70 and succinctly explained by Suffian FJ as follows:

First, it must be shown that the evidence could not have been obtained with reasonable diligence for use at the trial;

Second, the evidence must be such that, if given, it would probably have an important influence on the result of the case, although it need not be decisive;

Third, the evidence must be such as is presumably to be believed, or in other words, it must be apparently creditable, although it need not be incontrovertible.

[53] In fact, Low Hop Bing JCA in the Court of Appeal case of *Hue Ngee On v. Chai Woo Sien (Sebagai Pegawai Awam Persatuan Hakka Kulai, Johor)* [2009] 5 CLJ 734 opined that the three conditions had been codified in ROCOA when it is stated as follows:

The governing principles enunciated in *Ladd v. Marshall* [1954] 3 All ER 745 have been accorded statutory recognition in r. 7(1) and (3A)(a) of the Rules of the Court of Appeal 1994.

[54] In our present case, the appellant not only failed to comply with the written law procedurally as indicated earlier regarding adducing further evidence. He too, obviously did not show that he had fulfilled the three conditions well-established by the case law authorities above. Besides, allowing these documents to be admitted at this late stage, without doubt would be unfair to the respondents and will prejudice them as they had no opportunity to rebut these documents as evidence at the HC.

[55] The appellant also ignored para 7.3(b) of the Practice Direction of the Court of Appeal No 1 2017 as the record of appeal runs to more than 200 pages. This practice direction stipulates that each volume of the record of appeal must not be more than 200 pages.

[56] In this regard, a practice direction should not be taken lightly. In the Supreme Court case of *Ooi Bee Tat v. Tan Ah Chim & Sons Sdn Bhd & Anor And Another Appeal* [1995] 4 CLJ 484; [1995] 3 MLJ 465, Zakaria Yatim JCA in delivering judgment said:

> Practice directions are intended to be no more than directions for administrative purposes ...

[57] Though it may be trivial to the appellant, the need to comply with the practice direction will assist all parties to the appeal including this court as an appellate court. It is not issued for no apparent reason and should not be simply disregarded at the whim and fancy of any parties to the appeal. This is compounded in this case as the appellant seems unconcern and nonchalant in the need to follow various rules required in pursuing his own appeal, including this practice direction.

[58] Further, based on the contentions and issues raised by both the respondents, the Court of Appeal case of *Chuah Tim Lan v. RHB Bank Bhd & Anor* [2008] 6 CLJ 500 is to a large extent relevant to our present appeal as it also dealt with the provisions of ROCOA and practice directions. In this case too, various non-compliance by the appellant had been noted by the court. Hence, Suriyadi Halim Omar and Heliliah Mohd Yusof JJCA in delivering the judgment of the court essentially found as follows:

> The non-compliance of the Rules in relation to the impugned record of appeal was not an irregularity but a nullity. Furthermore, the applicant's conduct, as seen by its propensity to ignore and disregard the Rules and the Practice Directions, was reprehensible. In this instance, the objection to the application was not just a mere technical objection to an application of extension of time to file a supplementary record of appeal based on delay, but founded on something more serious. It was not an appeal where the facts showed that a good record of appeal was filed earlier, although out of time, but an objection raised founded on the reasoning that the record of appeal filed here had not complied with the substantive rules. At best, it was an extremely defective record of appeal and statutorily unacceptable, and was tantamount to no record of appeal having been filed. There was thus no proper appeal record before this court, resulting in the leave sought to file the supplementary record of appeal being an abuse of the procedural process and an exercise in futility. It was inconceivable that the applicant had persisted in filing the motion, which besides being much ado about nothing had consumed precious judicial time.

[59] Noting the above case, we too, find that the conduct of the appellant in the present appeal is quite disturbing that certainly must affect adversely the appeal he is pursuing.

Conclusion

[60] As explained, the appellant failed to comply with various procedural provisions in respect of his appeal. The very least, since it was only a ruling by the DR, there is no basis for the appellant to lodge the present appeal. The notice of appeal filed by the appellant is also an issue as shown to affect fatally against the appellant.

[61] Therefore, we are unanimous in deciding there is no basis for the appellant to sustain the present appeal. We also agree based on the reasons highlighted, the present substantive appeal should not be heard.